

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8570 OF 2016

Prakash Machindra Markad,
Age: 33 Years, Occu.: Service
as Assistant Teacher, in Navjeevan
Secondary and Higher Secondary School,
Dahigaon-ne, Tal.: Shevgaon,
Dist.: Ahmednagar

.. **Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary,
Education Department,
Mantralaya, Mumbai.
2. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar.
3. The Administrative Officer,
Janta Shikshan Prasarak Mandal,
Dahigaon-ne, Tal.: Shevgaon,
Dist.: Ahmednagar.

.. **Respondents**

Shri Amol N. Kakade, Advocate for the Petitioner.
Shri P. S. Patil, A. G. P. for Respondent Nos. 1 and 2.
Shri Ganesh P. Darandale, Advocate for Respondent No. 3.

CORAM : **S. V. GANGAPURWALA &**
MANGESH S. PATIL, JJ.

DATE : **7th September, 2017**

ORAL ORDER (PER S. V. GANGAPURWALA, J.):

1. Mr. Kakade, the learned counsel submits that, pursuant to the advertisement issued by the respondent - Institution in October 2011, the petitioner had applied for the post of Shikshan Sevak in the Secondary School. The proposal was forwarded by the Institution to the Education Officer, same is rejected on the ground that backlog from the reserved category candidates is required to be filled in. According to the learned counsel, as per the sanctioned roster two posts for open category are vacant. The learned counsel submits that, as per the advertisement eight posts are filled in, seven were filled in from reserved category and the petitioner is the only one from the open category. As per the sanctioned roster the post is admissible for open category candidate also.

2. Mr. Patil, the learned A. G. P. submits that, though, the post is available for open category candidate, however, still there is a backlog to be filled in.

3. The learned counsel for the Institution on instructions states that the Institution would fill in the backlog of the reserved category candidates.

4. We have perused the sanctioned roster filed by the Deputy Education Officer along with his affidavit. There are 22 vacant posts, out of those 22 vacant posts two posts of open

category candidates are also vacant. The petitioner is from open category. Under the advertisement 8 posts are filled in out of those 8 posts it is submitted that 7 posts are filled in from reserved category candidates.

5. The Institution has also undertaken to fill in the backlog of the reserved category candidates. The said statement is accepted as an undertaking to this Court.

6. Considering the vacancy available for the open category candidate the ground for rejecting the proposal is set aside.

7. The respondent No. 2 - Education Officer, shall reconsider the said proposal seeking approval to the appointment of the petitioner afresh and shall not reject it on the ground that the backlog from reserved category candidates is yet to be filled in.

8. The said proposal be decided expeditiously, preferably within 3 months from today.

9. The writ petition is accordingly partly allowed. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

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